SUPPORTING BRIEF

Petitioner respectfully suggests that decision of the Court of Appeals is at variance with the law, and will make untold confusion and loss in the handling of farmer's petitions for extension of time to pay debts, unless corrected by granting of this writ.

The statute seems clearly against the holding of the Court of Appeals.

Section 203 (e) expressly provides that the Court shall exercise such control as the Court deems to the best interest of the farmer and creditor.

This seems clear, and contradicts the holding of the Court of Appeals that the Court is vested with immediate and complete control without any special assumption of control.

To make it certain, we refer to section 203(j) which provides that when, after certain proceedings are had, a composition or extension proposal is made, this proposal "*may* provide for supervisory or other control by the conciliation commissioner over the farmer's affairs during such period, and for the termination of such period of supervision or control under conditions specified."

Section 203 (b) provides for the costs of supervision "if the creditors at any time desire supervision over the farming operations of a farmer."

All of this statute negatives the decision of the Court of Appeals that the filing of a petition under the Chandler

Act divests the farmer of all control of his property, just as a petition in bankruptcy would do.

It would place an impossible burden on the District Courts, to put them in the farming business, as would be done if they have to supervise and approve the contracts of debtor-farmers.

No farmer could successfully operate his farm, if burdened with the task of securing consent of a Court for every detail of the operation.

It therefore seems that this matter is of sufficient general importance to justify granting of writ.

SECOND GROUND FOR COURT OF APPEALS DECISION

The decision of the Court of Appeals, in an apparently *obitur dictum* paragraph, holds that the decision of the District Court against petitioner might be affirmed on another ground (not mentioned by the District Court), namely, that respondent could not be required under Louisiana law to take title to the O. K. Plantation because litigation was threatened and disturbance probable.

This has nothing to do with this application for writ, but we would point out that the Court of Appeals is in error as to this also.

The decisions of the Supreme Court of Louisiana cited do not support this holding. The cases of *Kardis v. Barrere, 136 So. 135,* and *Calhoun v. Teal, 106 La. 47,* are cases of recission of contract for error. The cases of *Michenor v. Reinach, 49 La. Ann. 360* and *Bodcaw Lumber*

Co. v. White, 121 La. 715, are cases where the Louisiana Court held a party did not have to accept a deed to land because the title was in litigation. In none of these cases was a lease involved, and in none was a situation like that at bar, where a mischievous person made an entirely unsupported and frivolous claim. If the law permitted a contract to be evaded on such a ground, contracts would be entirely uninforceable.

The Louisiana law on this subject is contained in the following articles of the Louisiana Civil Code:

> "Art. 2692. The lessor is bound from the very nature of the contract, and without any clause to that effect: 1, To deliver the thing leased to the lessee . . ."
>
> "Art. 2696. If the lessee be evicted, the lessors is answerable for the damage and loss which he sustained by the interruption of the lease."
>
> "Art. 2703. The lessor is not bound to guarantee the lessee against disturbances caused by persons not claiming any right to the premises; but in that case the lessee has a right of action for damages sustained against the person occasioning such disturbance."
>
> "Art. 2704. If the persons by whom those acts of disturbance have been committed, pretend to have a right to the thing leased, or if the lessee is cited to appear before a court of justice to answer to the complaint of the person thus claiming the whole or a part of the thing leased, or claiming some servitude on the same, he shall call the lessor in warranty, and shall be dismissed

from the suit if he wishes it, by naming the person under whose right he possesses."

It was clearly the legal duty of respondent, under its contract, to accept the possession of the O. K. Plantation tendered to it by petitioner, and call on petitioner to defend any suit brought by Belgarde, which obviously would never have happened.

Respectfully submitted,

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